

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NATASHA NANDALALL,

Plaintiff,

-against-

THE CITY OF NEW YORK, a municipal entity, and
NYPD OFFICER JUAN GONZALEZ, Shield No. 27448,

Defendants.
----- X

**DEFENDANT CITY OF NEW
YORK'S ANSWER TO
CROSS-CLAIMS**

07 Civ. 6257 (DAB)

JURY TRIAL DEMANDED

Defendant City of New York, by its attorney Michael A. Cardozo, Corporation Counsel of the City of New York, as and for its answer to defendant Police Officer Juan Gonzalez' crossclaims in Defendant Gonzalez's Answer to Complaint With Cross-Claims, dated August 21, 2008, respectfully alleges upon information and belief as follows.

1. Denies the allegations set forth in paragraph "48" of defendant Gonzalez's Answer.
2. Denies the allegations set forth in paragraph "49" of defendant Gonzalez's Answer.
3. Denies the allegations set forth in paragraph "50" of defendant Gonzalez's Answer.
4. Denies the allegations set forth in paragraph "51" of defendant Gonzalez's Answer.
5. Denies the allegations set forth in paragraph "52" of defendant Gonzalez's Answer.

6. Denies the allegations set forth in paragraph “53” of defendant Gonzalez’s Answer.

FIRST AFFIRMATIVE DEFENSE

7. The cross claims fail to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

9. Defendant City has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendant City violated any act of Congress providing for the protection of civil rights.

THIRD AFFIRMATIVE DEFENSE

10. At all times relevant to the incident, defendant City acted reasonably in the proper and lawful exercise of its discretion.

FOURTH AFFIRMATIVE DEFENSE

11. To the extent defendant Gonzalez asserts state law claims against defendant City, such claims should be barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

FIFTH AFFIRMATIVE DEFENSE

12. Defendant Gonzalez was acting in violation of the rules and regulations of the New York City Police Department at the time of the incident giving rise to the instant case.

SIXTH AFFIRMATIVE DEFENSE

13. Defendant Gonzalez’s cross-claims against defendant City are not ripe for adjudication.

SEVENTH AFFIRMATIVE DEFENSE

14. This Court lacks subject matter jurisdiction over defendant Gonzalez's cross-claims.

EIGHTH AFFIRMATIVE DEFENSE

15. Any injury alleged to have been sustained by plaintiff was not the proximate result of conduct on the part of defendant City and resulted from the culpable, negligent and/or intervening conduct of defendant Gonzalez or others.

NINTH AFFIRMATIVE DEFENSE

16. Defendant Gonzalez's cross claims may be barred in part by the doctrines of res judicata and/or collateral estoppel.

TENTH AFFIRMATIVE DEFENSE

17. The injuries resulting from the acts alleged in the plaintiff's complaint occurred while defendant Gonzalez was acting outside the scope of his employment, and in purely an individual capacity.

WHEREFORE, defendant City of New York respectfully requests judgment dismissing the defendant Juan Gonzalez's crossclaims in their entirety, together with the costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 13, 2008

Respectfully submitted,

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